IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JOE HOLLIS — PLAINTIFF

vs. — Civil Action No. 1:93cv346-D-D

JOHNSTON-TOMBIGBEE FURNITURE MANUFACTURING COMPANY — DEFENDANT

MEMORANDUM OPINION

Before the undersigned is the defendant's Motion to Dismiss, or in the alternative, for Summary Judgment. Finding that there exist genuine issues of material fact only as to one of the plaintiff's claims, the defendant's motion will be granted in part and denied in part.

FACTUAL BACKGROUND

The plaintiff Joe Hollis was employed by the defendant Johnston-Tombigbee Furniture Manufacturing Company (hereinafter "JTB") for two years as a lumber grader. In July of 1992, JTB terminated Hollis, and stated the reason for his termination was that the company required a certified lumber grader in his position. Mr. Hollis was not certified, but he was sixty-seven (67) years old at the time he was fired. Hollis filed a charge of age discrimination with the Equal Employment Opportunity Commission (hereinafter "EEOC"), and an investigation followed. JTB subsequently offered to re-hire the plaintiff, did so, and placed him in a salaried position within the paint department of the company. The plaintiff returned to work on February 8, 1993. In the presence of representatives of both the company and the EEOC

on July 13, 1993, Hollis signed a release withdrawing his EEOC charge. On August 27, 1993, the plaintiff was told by plant managers that the company was cutting back and eliminating some salaried positions. The plaintiff's position was to be included in this cutback. After inquiring about another employment within the company, the plaintiff was told that he could possibly be placed in an hourly-wage job, but that it would mean a substantial decrease in pay.[1] Were the plaintiff interested in such a position, he was to return on the following Monday. The plaintiff did not return to work on Monday nor any day after that. The plaintiff contends that he was fired on that eventful day, while the defendant asserts that he voluntarily quit by not returning to work the next week.[2]

Instead of returning to JTB, the plaintiff filed a new claim with the EEOC charging both race and age discrimination. Subsequently, the plaintiff filed this action, alleging claims of race and age discrimination, retaliatory discharge, and breach of

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[1] The defendant contends that Mr. Hollis was offered an hourly-wage position as an alternative to leaving the company, while the plaintiff contends they merely offered the hope of such a position. Regardless, eleven of the thirteen employees affected by this cutback were placed in other, hourly-wage positions.

[2] Interestingly enough, the defendant discusses the absentee policy of JTB and notes that the plaintiff had missed enough days to be fired, but characterizes the loss of the plaintiff's job as if he "quit" by being subject to firing under the policy. However, as the court will discuss, the distinction does not affect the substantive merit of the plaintiff's claims in this matter.

a negotiated settlement agreement. After suit was filed in this court, the plaintiff received a "right-to-sue letter" from the EEOC which stated that the EEOC believed that although 180 days had not passed since the filing of the plaintiff's EEOC claim, the EEOC believed that it could not process his claims within 180 days. The defendant has now moved this court to dismiss the plaintiff's claims, or in the alternative to grant the defendant a judgment as a matter of law. This court will address the defendant's motion only as a motion for summary judgment.

DISCUSSION

I. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. F.R.C.P. 56(c). The party seeking summary judgment carries the burden of demonstrating that there is an absence of evidence to support the non-moving party's case. Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106 S. Ct. 2548, 2553, 91 L.Ed.2d 265 (1986). After a proper motion for summary judgment is made, the non-movant must set forth specific facts showing that there is a genuine issue for trial. Hanks v. Transcontinental Gas Pipe Line Corp., 953 F.2d 996, 997 (5th Cir. 1992). If the non-movant sets forth specific facts in support of

allegations essential to his claim, a genuine issue is presented. Celotex, 477 U.S. at 327, 106 S.Ct. at 2554. "Where the record, taken as a whole, could not lead a rational trier of fact to find for the non-moving party, there is no genuine issue for trial." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S. Ct. 1348, 89 L.Ed.2d 538 (1986); Federal Sav. and Loan Ins. v. Krajl, 968 F.2d 500, 503 (5th Cir. 1992). The facts are reviewed drawing all reasonable inferences in favor of the non-moving party. King v. Chide, 974 F.2d 653, 656 (5th Cir. 1992).

II. THE EEOC "RIGHT-TO-SUE LETTER"

Initially, the defendants attack the plaintiff's claims on two similar grounds, both of which gravitate around the "right-to-sue" letter received by the plaintiff from the EEOC. In short, the defendant's positions are that:

> 1) the plaintiff filed his suit in this court **before** receiving the right-to-sue letter, and therefore this court lacks subject-matter jurisdiction over the plaintiff's claims; and
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> 2) the EEOC was without authority to issue the plaintiff a right-to-sue letter, because less than 180 days had passed since the plaintiff had filed his complaint with the EEOC.

The court will address these arguments separately before reaching the potential merits of the plaintiff's claims.

A) PLAINTIFF'S FILING SUIT BEFORE RECEIVING THE RIGHT-TO-SUE LETTER

The defendant's argument in this regard is based upon the assumption that the receipt of a right-to-sue letter is an absolute

jurisdictional prerequisite to the filing of a claim under Title VII. However, this is not the case. A right to sue letter is not a jurisdictional requisite to the **commencement** of an action, but it is a requisite to the **completion** of an action under Title VII. The plaintiff's possession of a right-to-sue letter is a statutory condition precedent which can be fulfilled after the filing of a lawsuit. Pinkard v. Pullman-Standard, 678 F.2d 1211, 1215 (5th Cir. 1982). The plaintiff's action is subject to dismissal without prejudice if he has yet to obtain a right-to-sue letter, but the defect is cured if he receives one before the court addresses the matter. Pinkard, 678 F.2d at 1215; James v. Texas Dept. of Human Services, 818 F.Supp. 987, 990 (N.D. Tex. 1993). In the case at bar, Mr. Hollis did in fact receive a right to sue letter before this court addressed the matter. In fact, Mr. Hollis obtained his letter on November 23, 1993, on a date before the defendant had even responded in any fashion to the plaintiff's complaint. This action will not be dismissed for the plaintiff's failure to receive his right-to-sue letter before his filed the instant action.

B) EEOC'S AUTHORITY TO ISSUE THE RIGHT-TO-SUE LETTER

The defendant also asserts that pursuant to the 180-day requirement contained in 42 U.S.C. § 2000e-5(f)(1), the EEOC is without authority to issue a right-to-sue letter before the expiration of this specified time period of 180 days. The EEOC issued the letter in this case pursuant to a regulation that

permits early notice if it is probable that the EEOC will be unable to administratively process the plaintiff's claim within the 180 day time limit. 29 C.F.R. § 1601.28(a)(2). It is the defendant's position that the EEOC does not have the power to issue such a regulation because of the requirements of 42 U.S.C. § 2000e-5(f)(1) creates a mandatory choice for the EEOC to either dismiss the claim or wait 180 days before issuing a right-to-sue letter. This court is cognizant of this argument and its history. See, e.g., Valerie J. Pacer, *The Early Right-To-Sue Letter: Has the EEOC Exceeded Its Authority?*, 72 Wash. U.L.Q. 757 (1994). Some District Courts around the country are in agreement with the defendant on this issue. E.g., Henschke v. New York Hospital, 821 F.Supp. 166 (S.D.N.Y. 1993); Mills v. Jefferson Bank East, 559 F.Supp. 34, 36 (D.Colo. 1983); Loney v. Carr-Lowrey Glass Co., 458 F.Supp. 1080, 1081 (D. Md. 1978). However, at least two Circuit Courts disagree, and hold that the EEOC has the discretion to issue early right-to-sue letters pursuant to 29 C.F.R. § 1601.28(a)(2). This has been the rule in the Ninth Circuit for some time. E.g., Brown v. Puguet Sound Elec. App. & Train. Trust, 732 F.2d 726, 729 (9th Cir. 1984); Bryant v. California Brewer's Ass'n., 585 F.2d 421 (9th Cir. 1978). Likewise, the Eleventh Circuit recently adopted the same viewpoint. Sims v. Trus Joist MacMillan, 22 F.3d 1059, 1062-63 (11th Cir. 1994). While the Fifth Circuit has never addressed this issue, a sister court within this circuit has, and has determined that the

EEOC regulation is valid. Wells v. Hutchinson, 499 F.Supp. 174, 189 (E.D. Tex. 1980). This court agrees. There is no legitimate purpose that wold be served by dismissing this claim without prejudice and forcing the plaintiff to undergo further delay. A plaintiff should not be required to sit and "twiddle his thumbs" when the EEOC is fully aware that they will not be able to process his claim timely. The challenged EEOC regulation comports with the legislative scheme which underlies 42 U.S.C. § 2000e-5(f)(1), and the EEOC has been mandated to promulgate regulations to implement that statute. The plaintiff has received his right-to-sue letter and is properly before this court on the claims asserted in his filed claim with the EEOC.

III. FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES

One of the plaintiff's claims is that the defendant breached a negotiated settlement agreement which was reached in conjunction with the withdrawal of the plaintiff's prior EEOC claim. The claim is presented by the plaintiff as one arising under state law. Consistent with this approach, the plaintiff did not file a claim with the EEOC to enforce the agreement. The defendant, however, takes the position that if in fact there was a settlement agreement reached, it was done under the provisions of federal discrimination law. Because of this, the defendant proposes, an action to enforce such an agreement must be brought under Title VII like any other claim - and the plaintiff must first exhaust his administrative

remedies before filing an action in federal court. Apparently, the plaintiff's only response to this matter is that there is no independent federal jurisdiction of this claim.

There is support for the defendant's position, and JTB correctly notes that two circuits require that agreements such as these are enforceable under Title VII, but only after administrative remedies have been exhausted. Blank v. Donovan, 780 F.2d 808, 809 (9th Cir. 1986); Parsons v. Yellow Freight System, Inc., 741 F.2d 871, 874 (6th Cir. 1984). The Fifth Circuit, however, has not been so explicit in their findings.

In this circuit, an action to enforce a settlement agreement which resolved a Title VII claim is actionable itself under Title VII. E.E.O.C. v. Safeway Stores, Inc., 714 F.2d 567, 571-72 (5th Cir. 1983), cert. denied, 467 U.S. 1204, 104 S.Ct. 2384, 81 L.Ed.2d 343 (1984); James v. Texas Dept. of Human Services, 818 F.Supp. 987, 990 (N.D. Tex. 1993); Kiper v. LA. State Bd. of Elementary Educ., 592 F.Supp. 1343, 1359 (M.D. La. 1984). As such, this court has original subject-matter jurisdiction over this claim of the plaintiff. Kiper, 592 F.Supp. at 990. "[A]n action by the aggrieved employee to enforce the terms of an EEOC conciliation agreement is an action brought directly under Title VII and [sic] a federal district court has jurisdiction over the action." Id.

It is a prerequisite to **any** action under Title VII that the

plaintiff exhaust his administrative remedies. Tolbert v. United States, 916 F.2d 245, 247 (5th Cir. 1990); Ray v. Freeman, 626 F.2d 439, 442 (5th Cir. 1980). As this is an action under Title VII, the plaintiff is required to file his claim with the EEOC and pursue an administrative remedy. This court concurs with the logic of the courts in Blank and Parsons, and cannot find an adequate reason for excusing the plaintiff from his burden of compliance with the requirements of the administrative process. This claim of the plaintiff will be dismissed without prejudice for the failure to exhaust administrative remedies.

IV. THE PLAINTIFF'S CLAIMS OF DISCRIMINATION

The plaintiff has asserted claims of race discrimination under Title VII and under 42 U.S.C. § 1981, age discrimination under the Age Discrimination in Employment Act, and reprisal discrimination under Title VII. "When 42 U.S.C. § 1981 and Title VII are asserted as parallel bases for relief, the same elements are required for both actions." Flanagan v. Aaron E. Henry Community Health Serv. Center, 876 F.2d 1231, 1233-34 (5th Cir. 1989); Tutton v. Garland Independent School Dist., 733 F.Supp. 1113, 1116 (N.D. Tex. 1990) (quoting Flanagan). Indeed, the plaintiff in this case has the burden of establishing virtually the same prima facie case for all of his discrimination claims. The defendants were involved in a general reduction, or restructuring, of their workforce at the time the alleged discrimination occurred. Considering this, the

plaintiff must:

> (1) satisfy the standing requirements of the statute by showing that he was within the protected group and that he has been adversely affected -- e.g., discharged or demoted -- by the employer's decisions;
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> (2) show that he was qualified to assume another position at the time of the discharge or demotion; and
>
> (3) produce evidence, circumstantial or direct, from which a fact-finder might reasonably conclude that the employer intended to discriminate in reaching the decision at issue.

Thornbrough v. Columbus and Greenville R. Co., 760 F.2d 633, 642 (5th Cir. 1985) (citing Williams v. General Motors Corp., 656 F.2d 120, 129 (5th Cir. 1981)), cert. denied, 455 U.S. 943, 102 S.Ct. 1439, 71 L.Ed.2d 655 (1982); Williams v. Southwestern Bell Telephone Co., 718 F.2d 715, 718 n.2 (5th Cir. 1981). These requirements apply for claims under the ADEA as well as those brought under the Title VII. See Molnar v. Ebasco Constructors, Inc., 986 F.2d 115, 118 (5th Cir. 1993); Uffelman v. Lone Star Steel Co., 863 F.2d 404, 407 (5th Cir. 1989). The only distinctions among the prima facie cases that the plaintiff must establish to prevail on his claims is that he must show that he has standing in the various classes (i.e., race, age and prior EEOC activity) and that the adverse employment decision was based discriminately upon these factors. Further, all of the plaintiff's claims of discrimination are subject to the McDonnell Douglas shifting burden of production. McDonnell Douglas Corp. v Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). The

plaintiff has the initial burden to establish his prima facie case. If the plaintiff does establishes a prima facie case, "the employer must articulate some legitimate, nondiscriminatory reason for the termination." Flanagan, 876 F.2d at 1233-34; Whiting, 616 F.2d at 121. The employer need not prove the absence of a discriminatory motive, but must show that the discriminatory motive did not play a significant factor in the decision to discharge plaintiff. Whiting, 616 F.2d at 121. Once the employer articulates its nondiscriminatory motive, the burden is again on the plaintiff to prove that the articulated legitimate reason was a mere pretext for a discriminatory decision. Id. The burden of persuasion to establish the statutory violation ultimately rests with the plaintiff, "who must establish the statutory violation by a preponderance of the evidence." Id. Even if the Plaintiff succeeds in revealing Defendant's reasons for terminating him were false, he still bears the ultimately responsibility of proving the real reason was "intentional discrimination." Saint Mary's Honor Center v. Hicks, --- U.S. ---, 113 S.Ct. 2742, 125 L.Ed.2d 407 (1993) ("It is not enough to disbelieve the employer; the factfinder must believe the Plaintiff's explanation of intentional discrimination.")

A) THE PLAINTIFF'S STANDING

It does not appear to be in dispute that the plaintiff is a member of the protected classes that the relevant statutes were

designed to protect. However, in their submissions to this court, the defendant appears to be of the opinion that if the plaintiff does not meet the remainder of this requirement. The defendant takes the position that the plaintiff was not actually fired from his position, but was demoted by transferring him to an hourly position. After this demotion, the defendant contends, the plaintiff "quit" his job after failing to return to work the next week. Whether the action by the defendant was a firing or a demotion is irrelevant to the determination at hand. Termination from his position is not required for the plaintiff to establish his claims. Merely suffering from an **adverse employment decision**, be it termination or demotion, is sufficient. Further, the plaintiff contends that he was constructively discharged from his position. There is sufficient factual information from which a trier of fact could determine that to be true. Therefore, for the purposes of this motion, the plaintiff is deemed to have met his burden as to this portion of his prima facie case.

B) PLAINTIFF'S QUALIFICATIONS TO ASSUME ANOTHER POSITION

Neither of the parties have directly presented evidence on this point or argued it in their pleadings. It is the court's opinion that the defendant has failed to demonstrate the absence of genuine issues of material fact in the matter, and therefore the plaintiff is deemed to have established this portion of his prima facie case.

C) EVIDENCE OF DISCRIMINATION

"When faced with a properly supported motion for summary judgment, a non-movant, such as plaintiff, cannot merely 'sit back and wait for trial.'" Hinton v. Teamsters Local Union No. 891, 818 F.Supp. 939 (N.D. Miss. 1993) (quoting Page v. De Laune, 837 F.2d 233, 238 (5th Cir. 1988)). As in Hinton, Mr. Hollis must "come forward with affirmative evidence creating a factual issue on his claim that he was treated differently" because of his race, age or prior EEOC activity. Hinton, 818 F.Supp. at 944. The defendant has presented a properly supported motion for summary judgment in this matter, and the plaintiff must now meet that motion with evidence in support of his claims. To meet his burden in this matter, the plaintiff may show that employees outside the particular protected group were more favorably treated. Uffelman, 863 F.2d at 407 (citing Thornbrough, 769 F.2d at 642).

1. RACE DISCRIMINATION

As to the plaintiff's claims of race discrimination, evidence is entirely lacking. The only evidence that the plaintiff has presented is that he was the only white person working in his division and that he had a black supervisor. The court is not aware of the race of any other employees or supervisors at JTB. The plaintiff asserts that his supervisor harassed him and treated him differently than the other employees, who were black. There is no evidence that the plaintiff's supervisor had anything to do with

his termination/demotion. In fact, the plaintiff asserts that his supervisor had made the statement that "she would fire him if she could," implying that his supervisor did not have the authority to fire him. As well, the plaintiff has offered nothing to imply that black employees were treated any differently than he was by with regard to the termination/demotion, which is the basis for his claims of discrimination.

2. AGE DISCRIMINATION

Evidence is likewise deficient with respect to the plaintiff's claim of age discrimination. There has been no evidence presented regarding the ages of the other employees involved in this restructuring by JTB, nor evidence that they were treated any differently than he. The plaintiff has merely stated that he was the "oldest." Being the "oldest" does not mean that other employees are not in the protected class of the ADEA. As well, there are no statements made by any other employee of JTB that would imply that plaintiff's age was in any way involved in the decision to terminate/demote him. There is no evidence, circumstantial or direct, from which a reasonable trier of fact could find an age-based discriminatory motive behind the defendant's actions. The mere fact that the plaintiff is older than his co-workers gives him no right to cry discrimination when he is adversely affected by an employment decision.

3. REPRISAL DISCRIMINATION

The only indication from the evidence that the action which is the subject of this lawsuit was premised upon his prior filing of an EEOC claim is the relative time frame between the settlement of the plaintiff's prior EEOC claim and the action currently in dispute. The action in dispute came over one year after he originally filed his claim of age discrimination with the EEOC, but only about one month after he signed a release of the EEOC charge. This court agrees that the timing itself is suspicious, and this alone is minimally sufficient for the purposes of the motion at bar to establish his prima facie case as to his claim of reprisal discrimination. See, e.g., Shirley v. Chrysler First, Inc., 970 F.2d 39, 44 (5th Cir. 1992); Wyatt v. City of Boston, 35 F.3d 13, 16 (1st Cir. 1994); Evans v. School Dist. of Kansas City, Mo., 861 F.Supp. 851, 858 (W.D. Mo. 1994). The plaintiff has met his burden in this regard.

Having determined that the plaintiff has met his burden under the present motion to establish his prima facie case as to one of his claims of discrimination (i.e., reprisal discrimination), the court must apply the shifting burden of production and require the defendant to articulate a legitimate non-discriminatory reason for the action taken against the plaintiff.

V. DEFENDANT'S LEGITIMATE REASON/PRETEXT

The defendant offers a "reduction in force" as the legitimate reason for the adverse employment decision against the plaintiff in

the case at bar. This money-saving reduction, the defendant contends, was company-wide and eliminated thirteen salaried positions, including that of the plaintiff. The plaintiff does not dispute the number of other employees involved in this "reduction in force."

Now that the defendant has articulated a legitimate reason for its action, it is incumbent upon the plaintiff to offer evidence which demonstrates that the offered reason is merely a pretext for discrimination. For purposes of the present motion, the court is of the opinion that the plaintiff has done so in this case.

The plaintiff may demonstrate pretext in one of two ways. Either he may do so by presenting direct evidence showing that a discriminatory motive more likely than not motivated the defendant, or he may do so indirectly by showing that the employer's explanation is unworthy of credence. Molnar, 986 F.2d at 118 (citing Amburgey v. Corhart Refractories Corp., 936 F.2d 805, 813 (5th Cir. 1991)). The only evidence before this court beyond the plaintiff's allegations is the timing of the adverse employment decision against the plaintiff, which this court has already discussed as establishing the plaintiff's prima facie case as to this claim. While tenuous, this court is of the opinion that this fact might be sufficient for a reasonable jury to determine that the defendant had a discriminatory motive in making the adverse employment decision against the plaintiff. This issue should be

determined by a trier of fact, and this claim of the plaintiff should not be disposed of by the defendant's motion for summary judgment.

CONCLUSION

The evidence before this court is insufficient to survive a properly-made motion for summary judgment on the majority of the issues before the court. The plaintiff's claim for breach of the negotiated settlement agreement is properly dismissed for failure to exhaust administrative remedies. As to most of the plaintiff's claims of discrimination, this court noted in Hinton:

> [the] plaintiff's attempts to create a genuine issue of material fact suggest only an "'attenuated possibility that a jury would infer a discriminatory motive,'" Thornburough v. Columbus & Greenville Railroad Co., 760 F.2d 633, 645 n. 19 (5th Cir. 1985) (citation omitted), . . . Furthermore, a party against whom summary judgment is sought cannot raise a fact issue simply by "asserting a cause of action to which state of mind is a material element. There must be some indication that he can produce the requisite quantum of evidence to enable him to reach the jury with his claim." Clark v. Resistoflex Co., A Division of Unidynamics Corp., 854 F.2d 762, 771 (5th Cir. 1988) (citation omitted). In this case, the "'possibility of a jury drawing a contrary inference sufficient to create a dispute as to a material fact does not reify to the point even of a thin vapor capable of being seen or realized by a reasonable jury.'" Amburgey v. Corhart Refractories Corp., 936 F.2d 805, 814 (5th Cir. 1991) (citation omitted).

Hinton, 818 F.Supp at 944. Mr. Hollis has not even offered evidence or asserted that other employees were treated differently under the same or similar circumstances. Further, there is insufficient circumstantial evidence before this court regarding most of the plaintiff's claims that would indicate to a reasonable

finder of fact a discriminatory intent on behalf of the defendant. There is, however, sufficient evidence to support the plaintiff's claim of reprisal discrimination. Based on the pleadings and matters presented, this court can find no genuine issue of material fact as to the plaintiff's remaining claims of discrimination or as to any other of the plaintiff's claims, and is of the opinion that the defendant is entitled to a judgment as a matter of law as to those claims.

A separate order in accordance with this opinion shall issue this day.

THIS _____ day of December, 1994.

_____
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JOE HOLLIS — PLAINTIFF

vs. — Civil Action No. 1:93cv346-D-D

JOHNSTON-TOMBIGBEE FURNITURE MANUFACTURING COMPANY — DEFENDANT

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Pursuant to a memorandum opinion issued this day, it is hereby ORDERED THAT:

1) the defendant's motion for Summary Judgment is GRANTED as to the plaintiff's claim of breach of a negotiated settlement agreement, and that claim of the plaintiff is hereby DISMISSED without prejudice for failure to exhaust administrative remedies.

2) the defendant's Motion for Summary Judgment is DENIED as to the plaintiff's claim of reprisal discrimination under Title VII; and

3) the defendant's Motion for Summary Judgment as to the plaintiff's remaining claims of discrimination under Title VII, 42 U.S.C. § 1981, and the Age Discrimination in Employment Act is GRANTED, and those claims are hereby DISMISSED.

All memoranda, depositions, affidavits and other matters considered by the court in granting in part and denying in part the defendant's motion for summary judgment are hereby incorporated and made a part of the record in this cause.

So ordered, this the _____ day of December, 1994.

United States District Judge